

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AARON L. EISENBERG,

Defendant.

Case No. 1:18CR513

Cleveland, Ohio

Tuesday, November 19, 2019

11:13 a.m.

TRANSCRIPT OF CHANGE OF PLEA HEARING
BEFORE THE HONORABLE JONATHAN D. GREENBERG
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: Aaron P. Howell
Office of the U.S. Attorney - Akron
2 South Main Street, Room 208
Akron, Ohio 44308
(330) 375-5716

For the Defendant: Angelo F. Lonardo
Yelsky & Lonardo
323 Lakeside Avenue, W, Suite 450
Cleveland, Ohio 44113
(216) 781-2550

Court Reporter: Caroline Mahnke, RMR, CRR, CRC
Federal Building & U.S. Courthouse
2 South Main Street, Suite 568
Akron, Ohio 44308
(330) 252-6021

Proceedings recorded by ECRO; transcript produced by
computer-aided transcription.

1 Tuesday, November 19, 2019

2 THE DEPUTY CLERK: All rise.

3 THE COURT: Thank you. Please be seated.

4 THE DEPUTY CLERK: Court calls Case Number
5 1:18CR513, United States of America versus Aaron Eisenberg.

6 THE COURT: Good morning.

7 On behalf of the United States.

8 MR. HOWELL: Good morning, Your Honor. Aaron
9 Howell on behalf of the United States.

10 THE COURT: On behalf of the defendant.

11 MR. LONARDO: Angelo Lonardo on behalf of Aaron
12 Eisenberg, Your Honor.

13 THE COURT: Thank you.

14 Mr. Howell, is this a matter that the Crime Victims'
15 Rights Act would apply to?

16 MR. HOWELL: No, Your Honor.

17 THE COURT: Very well.

18 Sir, you are Aaron L. Eisenberg?

19 THE DEFENDANT: Yes.

20 THE COURT: You can be seated, but I appreciate
21 it.

22 Why don't you slide that microphone up to you so we
23 can hear you and record what you're saying.

24 Sir, I have been informed you wish to plead guilty
25 today. Is my understanding correct?

1 THE DEFENDANT: Correct.

2 THE COURT: Sir, I also understand you have
3 consented to this Court receiving your plea.

4 Is that correct?

5 THE DEFENDANT: Correct.

6 THE COURT: I have the original consent form with
7 me here on the bench. I would like you to take a look at
8 it, please.

9 Sir, is that your signature on the consent form?

10 THE DEFENDANT: It is.

11 THE COURT: Have you discussed that consent with
12 your attorney?

13 THE DEFENDANT: I did.

14 THE COURT: Sir, do you understand you have a
15 right to offer your guilty plea to Judge Boyko, the trial
16 judge in this case?

17 THE DEFENDANT: Yes.

18 THE COURT: You need to speak into the
19 microphone.

20 THE DEFENDANT: Yes.

21 THE COURT: And do you understand that by giving
22 this consent to my jurisdiction you give up your right to
23 offer your guilty plea directly to Judge Boyko?

24 THE DEFENDANT: Yes.

25 THE COURT: Sir, do you still wish to proceed

1 with your plea here today?

2 THE DEFENDANT: Yes.

3 THE COURT: Sir, the purposes of this proceeding
4 are to establish you're competent to make a plea -- you can
5 sit up, please -- that you're competent to make a plea, to
6 make sure that your plea is free and voluntary, to be
7 certain that you understand the charges asserted against
8 you, the maximum penalties for those charges, and the
9 constitutional rights that you will be giving up by pleading
10 guilty.

11 Sir, we will also determine that there is a factual
12 basis for the plea and then to receive your plea.

13 During today's proceeding I'll be asking you a series
14 of questions. The court reporter will record my questions
15 and your answers. Only spoken or oral answers can be
16 recorded as opposed to a nod of the head or any other kind
17 of gesture. So please clearly state your answers.

18 If you don't understand the questions or at any time
19 you wish to consult with your attorney, please say so
20 because it's essential to a valid plea that you understand
21 each question before you answer.

22 Do you understand these instructions?

23 THE DEFENDANT: Yes.

24 THE COURT: Again, you need to speak into the
25 mic. We need to be able to take your --

1 THE DEFENDANT: Yes.

2 THE COURT: Sir, you have a right to remain
3 silent. You are not required to make a statement. Anything
4 you say may be used against you. Before receiving your
5 guilty plea, there are a number of questions I will ask to
6 assure that your plea is valid. By answering these
7 questions, you will be making statements against your
8 interest and you will incriminate yourself.

9 Do you understand that by proceeding here today with a
10 guilty plea you will necessarily be giving up your right to
11 remain silent?

12 THE DEFENDANT: Yes.

13 THE COURT: The clerk will please swear in the
14 defendant.

15 (The Defendant was sworn in.)

16 THE COURT: Please be seated.

17 Now, as part of this proceeding I must determine that
18 you're competent, that is, that you understand the
19 proceedings and are entering a knowing plea.

20 What is your full name?

21 THE DEFENDANT: Aaron Lee Eisenberg.

22 THE COURT: Sir, how old are you?

23 THE DEFENDANT: Forty years old.

24 THE COURT: Are you a citizen of the United
25 States?

1 THE DEFENDANT: Yes.

2 THE COURT: How far did you go in school?

3 THE DEFENDANT: I have a bachelor's degree from
4 The Ohio State.

5 THE COURT: So I'm correct you're able to both
6 speak, understand, and read and write the English language?

7 THE DEFENDANT: Correct.

8 THE COURT: Are you currently on probation,
9 parole, or supervised release for any state or federal
10 conviction?

11 THE DEFENDANT: No.

12 THE COURT: In the last 12 months have you been
13 treated for any mental illness, addiction to alcohol, or
14 addiction to narcotic drugs?

15 THE DEFENDANT: Yes.

16 THE COURT: Sir, is there anything about whatever
17 it is you've been treated for or any addiction you have that
18 inhibits your ability to understand what's happening here
19 today in court?

20 THE DEFENDANT: No.

21 THE COURT: Well, let me ask you this. In the
22 past 24 hours, have you taken any medication, drugs, or
23 alcohol?

24 THE DEFENDANT: Medication, yes.

25 THE COURT: So would that also be the issue as it

1 relates to -- these are prescribed medications?

2 THE DEFENDANT: Yes.

3 THE COURT: So in the last 12 months you've also
4 received prescribed medications. Is that a fair statement?

5 THE DEFENDANT: Yes.

6 THE COURT: Is there anything about those
7 medications that makes it difficult for you to understand me
8 talking to you?

9 THE DEFENDANT: No.

10 THE COURT: Is there anything about those
11 medications that makes it difficult for you to understand
12 what I'm saying to you?

13 THE DEFENDANT: No.

14 THE COURT: Is there anything about those
15 medications that makes it difficult for you to have
16 meaningful conversation with Mr. Lonardo and decide what's
17 the best course of action and for you to understand his
18 advice?

19 THE DEFENDANT: I'm good.

20 THE COURT: So that means no, there is nothing
21 about it?

22 THE DEFENDANT: Nothing.

23 THE COURT: Mr. Howell, do you have any doubt as
24 to this defendant's competence to plead at this time?

25 MR. HOWELL: No, Your Honor.

1 THE COURT: Mr. Lonardo, do you have any doubt as
2 to your client's competence to plead at this time?

3 MR. LONARDO: I have no doubt as to his
4 competence to plea at this time.

5 As the plea agreement indicates, he has had mental
6 health issues. I've been particularly sensitive towards
7 those.

8 We have had issues throughout our relationship, but as
9 we sit here today, I'm very confident that he understands
10 what's going on and he understands what's involved here and
11 that he's competent to enter a change of plea.

12 THE COURT: Sir, you have a constitutional right
13 to be represented by an attorney at each and every stage of
14 these proceedings. If you can't afford an attorney, one
15 will be appointed to represent you at no cost.

16 Now, you're currently being represented by Mr. Lonardo
17 here today. Is that correct?

18 THE DEFENDANT: Correct.

19 THE COURT: Have you had enough time to discuss
20 the charges made against you and the response to those
21 charges with Mr. Lonardo?

22 THE DEFENDANT: Yes.

23 THE COURT: And are you completely satisfied with
24 your attorney's representation and the advice he's given
25 you?

1 THE DEFENDANT: Yes.

2 THE COURT: Sir, by proceeding with a guilty
3 plea, you'll be giving up several constitutional rights. I
4 next want to review with you those rights and establish you
5 understand what you're giving up by pleading guilty.

6 You have a right to stand by your plea of not guilty
7 and to require the government to proceed to trial.

8 You have a right to a trial by jury including the
9 assistance of counsel at trial.

10 At such a trial, you would be presumed innocent and
11 the government would be required to prove you guilty by
12 competent evidence beyond a reasonable doubt. You would not
13 have to prove that you're innocent.

14 Do you understand these rights?

15 THE DEFENDANT: Yes.

16 THE COURT: And do you understand that by
17 pleading guilty you'll be giving up these rights?

18 THE DEFENDANT: Yes.

19 THE COURT: Sir, you also have a right to
20 compulsory process. That is, at trial you have the right to
21 the issuance of subpoenas to require the attendance of
22 witnesses to testify on your behalf or produce exhibits or
23 documents for trial.

24 Do you understand your right to compulsory process?

25 THE DEFENDANT: Yes.

1 THE COURT: And, sir, do you understand that by
2 pleading guilty you'll be giving up this right?

3 THE DEFENDANT: Yes.

4 THE COURT: Sir, you also have the right to see,
5 hear, and cross-examine all witnesses that the United States
6 may present against you.

7 Do you understand your right to confront the witnesses
8 who would testify against you?

9 THE DEFENDANT: Yes.

10 THE COURT: And do you understand that by
11 pleading guilty you'll be giving up this right?

12 THE DEFENDANT: Yes.

13 THE COURT: Sir, you have the right to remain
14 silent at trial. While you would have the right to testify
15 if you chose to do so, you would also have the right not to
16 testify, and no inference or suggestion of guilt could be
17 drawn from the fact that you did not testify.

18 Do you understand your right to remain silent?

19 THE DEFENDANT: Yes.

20 THE COURT: And do you understand that by
21 pleading guilty you will be giving up this right?

22 THE DEFENDANT: Yes.

23 THE COURT: Sir, as I stated earlier, if you
24 proceed with your plea of guilty, you give up your right not
25 to incriminate yourself. You will have to acknowledge that

1 you engaged in criminal conduct to make a valid guilty plea.

2 Do you understand your right not to incriminate
3 yourself?

4 THE DEFENDANT: Yes.

5 THE COURT: And do you understand that by
6 pleading guilty you will be giving up this right?

7 THE DEFENDANT: Yes.

8 THE COURT: Now, if you plead guilty and Judge
9 Boyko accepts your plea, do you understand that you give up
10 your right to trial and the other rights I've just
11 discussed, that there will be no trial, and that the
12 district judge will enter a judgment of guilty and sentence
13 you on the basis of your guilty plea after considering a
14 presentence report?

15 Do you understand this, Mr. Eisenberg?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand the offense to
18 which you're pleading guilty is a felony offense and that a
19 judgment of guilty may deprive you of other civil rights
20 such as the right to vote, the right to hold public office,
21 the right to serve on a jury, and the right to possess any
22 kind of firearm?

23 THE DEFENDANT: Yes.

24 THE COURT: Sir, do you have a copy of the
25 indictment?

1 THE DEFENDANT: Yes.

2 THE COURT: Have you discussed with your attorney
3 the charges in the indictment to which you intend to plead
4 guilty?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand the charges made
7 against you in the indictment?

8 THE DEFENDANT: Yes.

9 THE COURT: Mr. Howell, can you please state for
10 the record what the possible penalties, the maximum possible
11 penalties for all the counts to which Mr. Eisenberg intends
12 to plead?

13 MR. HOWELL: Yes, Your Honor.

14 In regards to Count 1, the statute is Title 18, United
15 States Code, Section 1956(h), conspiracy to launder money.

16 Faces a maximum term of imprisonment of up to 20
17 years, a maximum statutory fine of \$4.6 million, maximum
18 period of supervised release of three years, and a mandatory
19 \$100 special assessment.

20 Count 7, same code section, Title 18, United States
21 Code, Section 1956(h), conspiracy to launder money.

22 Same penalties in regards to the maximum term of
23 imprisonment, 20 years. Maximum statutory fine for Count 7
24 is \$493,809. The maximum period of supervised release is
25 three years. And there is a \$100 mandatory special

1 assessment.

2 THE COURT: Is there any restitution, Mr. Howell?

3 MR. HOWELL: No, Your Honor.

4 THE COURT: And any forfeiture?

5 MR. HOWELL: Yes, Your Honor.

6 In regards to the forfeiture, the defendant has
7 reviewed the forfeiture provision contained in the
8 indictment. Defendant states he's not the owner of, has no
9 interest in, and will not contest the forfeiture of the
10 assets listed therein.

11 THE COURT: Mr. Eisenberg, do you understand the
12 maximum possible penalties you're facing?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you also understand the forfeiture
15 issue which was just described by Assistant United States
16 Attorney Howell?

17 THE DEFENDANT: Yes.

18 THE COURT: And do you also understand the
19 Court's obligation to impose a special assessment in this
20 case?

21 THE DEFENDANT: I'm not sure what the special
22 assessment means.

23 MR. LONARDO: It's \$100 for each count.

24 THE COURT: Mr. Lonardo, would you like a moment
25 with your client?

1 Why don't you do the white noise.

2 (Pause.)

3 THE DEFENDANT: Okay.

4 THE COURT: So, again I ask you, do you
5 understand the Court's obligation to impose a special
6 assessment in this case?

7 THE DEFENDANT: Yes.

8 THE COURT: Let me finish the question before you
9 answer.

10 Do you understand the Court's obligation to impose a
11 special assessment in this case?

12 THE DEFENDANT: Yes.

13 THE COURT: Sir, is your desire to plead guilty
14 the result of an exercise of your own free will?

15 THE DEFENDANT: Yes.

16 THE COURT: Has anyone threatened you or
17 threatened anyone else or forced you in any way to plead
18 guilty?

19 THE DEFENDANT: No.

20 THE COURT: It's my understanding a plea
21 agreement has been entered into between you and the United
22 States or your lawyer on your behalf; is that correct?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you have a copy of the plea
25 agreement?

1 THE DEFENDANT: Yes.

2 THE COURT: I would like you to take a look at my
3 copy which is an original.

4 Mr. Eisenberg, is that your signature on the last page
5 of the plea agreement?

6 THE DEFENDANT: Yes.

7 THE COURT: You didn't even look.

8 THE DEFENDANT: It seemed redundant.

9 Yes.

10 THE COURT: Now, at the bottom right-hand corner
11 of each page there are initials. Do you see those initials?

12 THE DEFENDANT: Yes.

13 THE COURT: And are those your initials?

14 THE DEFENDANT: They are.

15 THE COURT: Written by you?

16 THE DEFENDANT: Yes.

17 THE COURT: Look at page 2 of the plea agreement.
18 There is a handwritten edit that says "three years."

19 Do you see that?

20 THE DEFENDANT: Yes.

21 THE COURT: And there is initials there; is that
22 correct?

23 THE DEFENDANT: Yes.

24 THE COURT: Is one of those initials yours?

25 THE DEFENDANT: Yes.

1 THE COURT: Have you had an opportunity to read
2 and discuss this plea agreement with your lawyer before you
3 signed it?

4 THE DEFENDANT: Yes.

5 THE COURT: And do you understand the terms of
6 the plea agreement?

7 THE DEFENDANT: Yes.

8 THE COURT: The clerk will retrieve the plea
9 agreement, please.

10 Thank you.

11 Mr. Howell, will you please state the substance of the
12 plea agreement for the record.

13 MR. HOWELL: Yes, Your Honor.

14 THE COURT: You can be seated if you would like.
15 You don't have to --

16 MR. HOWELL: I feel more comfortable. Is
17 that okay?

18 THE COURT: Sure.

19 MR. HOWELL: Thanks.

20 The defendant agrees to plead guilty to Counts 1 and 7
21 of the indictment in this case.

22 And as terms of his plea agreement, at sentencing the
23 United States Attorney's Office will move to dismiss the
24 charges against the defendant in Counts 2 and 3 of the
25 indictment in this case.

1 The parties have agreed that there is a stipulated
2 guideline computation noted at paragraph 17 of the plea
3 agreement.

4 Additionally, at this time the United States
5 Attorney's Office has agreed to recommend the third level
6 for acceptance of responsibility at the time of sentencing.

7 As terms of the plea agreement, there is no agreement
8 in regards to criminal history category.

9 As terms of the plea agreement, the defendant
10 acknowledges that he has waived his right to appeal except
11 for specific instances which are noted at paragraph 20.

12 Specifically, he reserves the right to appeal any
13 punishment in excess of the statutory maximum or any
14 sentence to the extent it exceeds the maximum of the
15 sentencing imprisonment range determined under the advisory
16 sentencing guidelines in accordance with the sentencing
17 stipulations and computations in this agreement.

18 Additionally, at paragraph 14, the defendant's counsel
19 may bring to the Court's attention mental health issues
20 concerning the defendant and will also request the Court
21 recommend the defendant for the intense drug treatment
22 program.

23 Other than that, the United States and defense counsel
24 and the defendant have agreed that after considering Title
25 18, United States Code 3553(a) factors, the parties will

1 recommend that the Court impose a sentence within the range
2 and the kind specified pursuant to the advisory sentencing
3 guidelines according to the computation at paragraph 17.

4 The parties have also agreed to a factual basis and
5 relevant conduct which is noted at paragraph 22.

6 THE COURT: Thank you.

7 Mr. Lonardo, are you in accord with the substance of
8 the plea agreement as stated by Assistant United States
9 Attorney Howell?

10 MR. LONARDO: Yes, I would concur, Your Honor, in
11 the representations made by Mr. Howell.

12 THE COURT: Mr. Eisenberg, are you in accord with
13 the substance of the plea agreement as stated by Assistant
14 United States Attorney Howell?

15 THE DEFENDANT: Yes.

16 THE COURT: Mr. Eisenberg, has anyone, including
17 your lawyer, the lawyer for the government, this Court, or
18 any other Court made any promise to you other than those
19 contained in the plea agreement to induce you to plead
20 guilty?

21 THE DEFENDANT: No.

22 THE COURT: Sir, do you understand that if I
23 recommend the acceptance of this agreement and Judge Boyko
24 accepts my recommendation, that then you cannot withdraw
25 your guilty plea?

1 THE DEFENDANT: Yes.

2 THE COURT: I direct your attention to page 6,
3 paragraph 20 of the plea agreement.

4 Sir, do you understand that you cannot appeal your
5 sentence except under the limited circumstances permitted by
6 that section?

7 THE DEFENDANT: Yes.

8 THE COURT: Sir, do you understand that you
9 cannot contest your conviction or sentence by any
10 post-conviction proceedings?

11 THE DEFENDANT: Yes.

12 THE COURT: Sir, have you and your attorney
13 discussed how the Sentencing Commission Guidelines might
14 apply to your case?

15 THE DEFENDANT: Yes.

16 THE COURT: I direct your attention to paragraphs
17 12 through 19 of the plea agreement beginning on page 4.

18 Sir, do you understand that the paragraph -- these
19 paragraphs discuss the application of the sentencing
20 guidelines to your case?

21 THE DEFENDANT: Yes.

22 THE COURT: And have you and your attorney
23 discussed the range of sentence that you may receive?

24 THE DEFENDANT: Um-hum, yes.

25 THE COURT: Mr. Lonardo, if you can, without

1 waiving any attorney-client privilege, please state for the
2 record the substance of the discussion you've had with Mr.
3 Eisenberg as it relates to the range of sentence he may
4 receive pursuant to the sentencing guidelines?

5 MR. LONARDO: Yes, Your Honor.

6 As set forth in the plea agreement, we have discussed
7 that he starts -- what the offense level is to begin with, a
8 level 30, where he sits in the sentencing table regarding
9 that; our understanding and belief that he would receive a
10 three-level downward deduction for acceptance of
11 responsibility because he is accepting responsibility for
12 the offense conduct as set forth in the plea agreement, that
13 that would bring him -- it's my understanding and belief
14 that he falls into a category number I. That would bring
15 him to a 70 to 87 month range.

16 I also told him that I also intended to bring to the
17 Court the history of his -- his mental health history and
18 other relevant considerations in the sentencing memorandum
19 and that it would be up to the Court as to where he would
20 fall within 70 to 87 months.

21 I indicated to him that I fully expected him to get a
22 recommendation for the drug treatment program because he
23 desperately needs that program. That program has been very
24 successful in the past with other clients of mine. And that
25 would further reduce his sentence downward, that he would be

1 given credit for time served in this matter, and that he
2 would also, if he lived within the requirements of the
3 institution, in the federal institution he gets credit
4 for -- good conduct credit which is a motivating factor.
5 And we reviewed that aspect of it.

6 We reviewed the aspect that there is no role in the
7 offense for him that's set forth in the plea agreement and
8 applicable in this change of plea. And that certainly
9 benefits him, especially under the First Step Act because
10 under the First Step Act that recently came into effect he
11 wouldn't be eligible for any further reductions if he had a
12 role in the offense.

13 So --

14 THE COURT: I'm sorry to interrupt you, Mr.
15 Lonardo. I just want to make sure, though, that you, for
16 the record, can tell me the specifics of the conversation,
17 if you're not going to be violating any privilege, as it
18 relates to the application of the sentencing guidelines.

19 MR. LONARDO: Right. We did.

20 THE COURT: Thank you very much.

21 Mr. Eisenberg, are you in agreement with what your
22 attorney has just stated?

23 THE DEFENDANT: What did you -- I'm sorry. I
24 missed that.

25 THE COURT: Are you listening to me?

1 THE DEFENDANT: Yeah.

2 THE COURT: Okay.

3 THE DEFENDANT: Yes.

4 THE COURT: Are you in agreement with what your
5 lawyer just said?

6 THE DEFENDANT: Yes.

7 THE COURT: Very well.

8 Does the counsel for the United States, Mr. Howell,
9 agree with the substance of defense counsel's position on
10 the applicable sentencing range?

11 MR. HOWELL: Yes, Your Honor. The statements
12 that Mr. Lonardo expressed to the Court are consistent with
13 the conversations that we've had throughout the case and are
14 consistent with the terms of the plea agreement.

15 THE COURT: Thank you.

16 Mr. Eisenberg, do you understand that sentencing rests
17 within the discretion of the Court and that the federal
18 sentencing law requires the Court to impose a sentence which
19 is sufficient but not greater than necessary to comply with
20 the purposes of sentencing as set out in the United States
21 Code. And in doing so, the Court must consider the advisory
22 United States Sentencing Guidelines we've been discussing
23 here in open court?

24 THE DEFENDANT: Yes.

25 THE COURT: Sir, do you understand, however, that

1 the Court will determine the advisory United States
2 sentencing guideline imprisonment range after a presentence
3 report has been prepared by the United States Probation
4 Office?

5 THE DEFENDANT: Yes.

6 THE COURT: Sir, do you understand that any
7 recommendations contained in the plea agreement are not
8 binding on the Court and the Court may impose any sentence
9 provided by law up to the maximum we previously discussed?

10 THE DEFENDANT: Yes.

11 THE COURT: Sir, do you understand the Court
12 alone will decide the applicable sentencing range under the
13 advisory sentencing guidelines, whether there is any reason
14 to depart from that range or impose a sentence outside of
15 the guidelines and what sentence to impose?

16 In other words, do you understand that the sentence
17 that the Court may impose may be different from any estimate
18 that your attorney has given you?

19 THE DEFENDANT: Yes.

20 THE COURT: Sir, do you understand that if the
21 Court imposes a sentence different from what is recommended
22 by the government or your attorney, you have no right to
23 withdraw your guilty plea?

24 THE DEFENDANT: Yes.

25 THE COURT: Sir, do you also understand, as

1 previously discussed, it is only under some limited
2 circumstances that you or the government may have the right
3 to the appeal any sentence imposed?

4 THE DEFENDANT: Yes.

5 THE COURT: Sir, do you also understand that
6 parole has been abolished and if you're sentenced to prison
7 you will not be released early on parole?

8 THE DEFENDANT: Yes.

9 THE COURT: Having discussed your rights with
10 you, do you still wish to proceed with your guilty plea?

11 THE DEFENDANT: I do.

12 THE COURT: We'll now review with you the portion
13 of the plea agreement in which you stipulate as to the facts
14 that relate to your conduct as charged in the indictment.

15 You will have an opportunity to correct any facts you
16 believe to be incorrect.

17 I direct your attention to page 7, paragraph 22 of the
18 plea agreement.

19 Mr. Howell, please read the factual basis.

20 MR. HOWELL: Thank you, Your Honor.

21 In paragraph 22 it starts out, the first paragraph,
22 paragraph and a half, are just the language of the statute
23 as cited in the indictment as to Count 1.

24 Starting on page 8, Eisenberg directed Codefendant
25 Jack W. Morgan to ship pallets filled with packages of

1 marijuana from California to warehouses in Euclid,
2 Wickliffe, and Willoughby, Ohio using a commercial carrier
3 called Specialized Transportation, Incorporated.

4 Eisenberg and others attempted to conceal the nature
5 of the contents of the pallets containing marijuana by
6 labeling the contents of the pallets as items such as
7 computer parts.

8 Morgan coordinated the shipment of bulk United States
9 currency via STI, which stands for Specialized
10 Transportation, Incorporated, from the warehouses in Euclid,
11 Wickliffe, and Willoughby, Ohio back to Eisenberg in
12 California.

13 The defendants attempted to conceal the identity of
14 the sender and receiver of the pallets containing the United
15 States currency by labeling the pallets with the names of
16 companies that do not exist.

17 From on or about May 28, 2014 through on or about July
18 29, 2015, Morgan shipped approximately 1,997 pounds of
19 marijuana from marijuana to the warehouses in the Northern
20 District of Ohio and also shipped approximately --

21 THE COURT: I think you didn't quite get that
22 right.

23 Why don't you start over from "from on or about May
24 28."

25 MR. HOWELL: Through on or about July 29, 2015,

1 Morgan shipped approximately 1,997 pounds of marijuana from
2 California to the warehouses in the Northern District of
3 Ohio and shipped approximately \$2,333,720 in United States
4 currency from the Northern District of Ohio to California.

5 Eisenberg paid Morgan an agreed-upon amount above the
6 agreed-upon fee for shipping the marijuana and the bulk
7 United States currency.

8 Eisenberg used some of the United States currency that
9 he received to pay his living expenses, and he invested some
10 of it in businesses to attempt to conceal the actual nature
11 of his business and the source of the United States
12 currency.

13 Eisenberg agrees that the United States can prove
14 beyond a reasonable doubt that he and his coconspirators
15 performed and caused others to perform acts in the Northern
16 District of Ohio and elsewhere, including but not limited to
17 all the acts outlined in Count 1 of the indictment, all in
18 furtherance of the money laundering conspiracy.

19 THE COURT: Mr. Eisenberg, do you agree with the
20 facts as stated so far by Assistant United States Attorney
21 Howell?

22 THE DEFENDANT: Yes.

23 THE COURT: Mr. Howell.

24 MR. HOWELL: Thank you, Your Honor.

25 Then we move to the facts in support of Count 7.

1 In September of 2013, Aaron Eisenberg rented a
2 commercial space at a building in Cleveland, Ohio under the
3 name of Iceberg Promotions LLC.

4 The commercial space included a hair salon, barber
5 shop, and tattoo parlor, collectively referred to as The
6 Reserve.

7 Eisenberg hired Codefendant Cynthia Hounshell to
8 manage the commercial space for renovations and the
9 businesses, including the hair salon, barber shop, and
10 tattoo parlor.

11 Eisenberg and Hounshell knowingly used proceeds from
12 the distribution of marijuana to establish, renovate, and
13 operate the businesses at The Reserve.

14 Between November of 2013 and May of 2014, Eisenberg
15 set up a series of bank accounts at Fifth Third Bank for the
16 businesses at The Reserve through which he and Hounshell
17 both had signature authority.

18 In December of 2013, Hounshell opened a new bank
19 account for Endless Interior Designs & Consulting LLC at
20 Fifth Third Bank.

21 Eisenberg and Hounshell deposited or caused to be
22 deposited cash in the bank accounts in the name of Millberg
23 LLC, and Endless Interior Design & Consulting LLC in an
24 effort to conceal the source of the cash.

25 They deposited cash into what appeared to be

1 legitimate business accounts to conceal the fact the cash
2 was marijuana distribution proceeds.

3 Eisenberg and Hounshell knowingly used the funds which
4 were the proceeds from the distribution of the marijuana in
5 the Fifth Third bank accounts of Millberg LLC and Endless
6 Interior Design & Consulting LLC to pay expenses associated
7 with the establishment, renovation, and operation of the
8 businesses at The Reserve.

9 In furtherance of the conspiracy and to affect the
10 goals to conceal the existence of the money laundering
11 conspiracy, Defendants Eisenberg and Hounshell performed and
12 caused others to perform acts in the Northern District of
13 Ohio and elsewhere, including but not limited to the
14 following:

15 Your Honor, and if it would please the Court, what's
16 outlined from the remainder of pages 10 through 18 are the
17 specific deposits that were referenced above in the facts
18 during the dates that were also outlined in the stipulation
19 of facts.

20 And if it would please the Court, I wouldn't want to
21 read every one of those in if that's okay.

22 THE COURT: Yeah, I was just going to have you
23 read the remainder of that sentence from the dates.

24 MR. HOWELL: Okay.

25 THE COURT: And instead of saying "the following

1 amounts," I think, if it's okay with you, Mr. Lonardo, "in
2 the aggregate amount," which is the total at the end.

3 Is that acceptable to you, Mr. Lonardo?

4 MR. LONARDO: That's acceptable to the defense,
5 Your Honor.

6 THE COURT: Thank you.

7 Mr. Howell.

8 MR. HOWELL: Thank you, Your Honor.

9 From on or about December 2, 2013 to on or about July
10 8 of 2015, Eisenberg and Hounshell deposited or caused to be
11 deposited cash, including proceeds of marijuana trafficking,
12 into Fifth Third Bank accounts in the name of Millberg LLC
13 and Endless Interior Designs & Consulting LLC -- and moving
14 to page 15 at the top of the page -- in the total of
15 \$246,904.50 in total cash deposits.

16 And that's all in violation of Title 18, United States
17 Code, Section 1956(h).

18 Mr. Eisenberg, are you in total agreement with the
19 factual basis as contained in the plea agreement?

20 (Pause.)

21 THE DEFENDANT: Sorry, Your Honor.

22 THE COURT: You don't have to be sorry. I told
23 you you can speak with your lawyer whenever you want.

24 Why don't you hit the white noise button, please.

25 Hold on once second, please, so we can get you some

1 privacy.

2 Go ahead.

3 (Defendant confers with counsel.)

4 THE COURT: Mr. Lonardo, have you had ample time
5 to discuss with your client whatever issue he wanted to
6 discuss with you?

7 MR. LONARDO: Yes, I have.

8 THE COURT: Mr. Eisenberg, let me ask you again.
9 Are you in total agreement with the factual basis as
10 contained in the plea agreement?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you wish to make any changes to
13 the factual basis of the plea agreement as it's been read to
14 you?

15 THE DEFENDANT: I can agree with my conduct. I
16 agree with my own conduct, but I can't speak for others.

17 THE COURT: Well, I understand. So this is a
18 factual basis. If you wish to amend it, we will suspend
19 these proceedings and you and your attorney and Mr. Howell
20 can meet as it relates to an acceptable factual basis.

21 Mr. Lonardo, we'll give you some more time.

22 (Counsel confers with defendant.)

23 THE COURT: Let me begin this part of the
24 colloquy again with you, Mr. Eisenberg.

25 THE DEFENDANT: Okay.

1 THE COURT: Are you in total agreement with the
2 factual basis as contained in the plea agreement?

3 THE DEFENDANT: I am.

4 THE COURT: Do you wish to make any change in the
5 factual basis of the plea agreement as it's been read to
6 you?

7 THE DEFENDANT: No.

8 THE COURT: Mr. Lonardo, do you agree that the
9 factual basis covers each of the essential elements of the
10 offense to which Mr. Eisenberg intends to plead guilty?

11 MR. LONARDO: Yes, I do, Your Honor.

12 THE COURT: Mr. Howell, is there anything that
13 the Court has failed to cover prior to receiving the plea?

14 MR. HOWELL: No, Your Honor.

15 THE COURT: Is the United States and counsel for
16 the United States satisfied the Court has fulfilled the
17 requirements necessary pursuant to Criminal Rule 11?

18 MR. HOWELL: Yes, Your Honor.

19 THE COURT: Mr. Lonardo, is there anything the
20 Court has failed to cover prior to receiving your client's
21 plea?

22 MR. LONARDO: No, Judge.

23 THE COURT: Is counsel satisfied that the Court
24 has fulfilled the requirements necessary pursuant to
25 Criminal Rule 11?

1 MR. LONARDO: Yes, I am, Your Honor.

2 THE COURT: Mr. Eisenberg, I'm prepared to
3 receive your plea. Would you like to confer with your
4 attorney before I ask you what your plea is?

5 THE DEFENDANT: I'm ready.

6 THE COURT: Is that a yes or no?

7 THE DEFENDANT: Yes.

8 THE COURT: Let me ask you again because you kind
9 of --

10 THE DEFENDANT: Yeah, I think I --

11 THE COURT: So the question is, I'm prepared to
12 receive your plea. Do you want to confer with your attorney
13 before I ask you what your plea is?

14 THE DEFENDANT: No.

15 THE COURT: Do you have any questions of me
16 before I ask you what your plea is?

17 THE DEFENDANT: No.

18 THE COURT: Now, having advised you of your
19 rights, having established your competence, and having found
20 a factual basis for your plea, I ask you now, how do you
21 plead to Counts 1 --

22 MR. LONARDO: Your Honor, if I just might for the
23 record. I want to just make this is real clear. I don't
24 want to give the impression that my client's taking this
25 lightly or anything else. My client has a personality that

1 when he talks to you, sometimes he's smiling.

2 THE COURT: I've not taken offense at anything.

3 MR. LONARDO: Okay. Great.

4 Sometimes I did when I was talking to him. I said,
5 "What are you smiling at?" He said, "Well, this is me."

6 THE COURT: Well, look. I can tell your client
7 to sit up or doing anything I want without taking offense to
8 it. So I think I did tell you to sit up earlier. I'm not
9 taking offense to it.

10 But let me go back to this conversation.

11 MR. LONARDO: Okay.

12 THE COURT: Having advised you of your rights,
13 having established your competence, and having found a
14 factual basis for your plea, I ask you now, how do you plead
15 to Counts 1 and 7 of the indictment, guilty or not guilty?

16 THE DEFENDANT: Guilty.

17 THE COURT: The record will reflect the defendant
18 has tendered a plea of guilty.

19 For the record, it is my understanding that the
20 defendant, Aaron L. Eisenberg, is fully competent to and
21 capable of entering an informed plea, that he is aware of
22 the nature of the charges brought against him and the
23 consequences of his plea, and that his plea of guilty to
24 Counts 1 and 7 of the indictment in this case is a knowing
25 and voluntary plea supported by an independent basis in fact

1 containing each of the essential elements of the offenses
2 charged.

3 I therefore recommend that Judge Boyko approve the
4 plea agreement, accept Mr. Eisenberg's plea, and adjudge him
5 guilty of the offense charged -- the offenses charged in
6 Counts 1 and 7 of the indictment.

7 Mr. Eisenberg, the Court will order a presentence
8 investigation report prior to sentencing. I advise you that
9 it's in your best interest to cooperate with the probation
10 officer in furnishing information for that report since that
11 report will be important in the decision as to what your
12 sentence will be.

13 You and your attorney will have a right and will have
14 an opportunity to examine the report and comment on it at
15 the time of sentencing.

16 The disposition sentence in this case has been set for
17 March 4, 2020 at 11:00 a.m. before Judge Boyko.

18 The defendant is in pretrial detention, is therefore
19 remanded to the custody of the United States marshal.

20 Is there anything further on behalf of the United
21 States?

22 MR. HOWELL: No, Your Honor. Thank you.

23 THE COURT: Anything further on behalf of the
24 defendant?

25 MR. LONARDO: No. Thank you, Judge.

1 THE COURT: Very well. We are in recess.

2 THE DEPUTY CLERK: All rise.

3 (Proceedings concluded at 11:48 a.m.)

4

5 C E R T I F I C A T E

6

7 I certify that the forgoing is a correct
8 transcript from the record of proceedings in the
9 above-entitled matter.

10

11 S/Caroline Mahnke 11/26/2019

12 Caroline Mahnke, RMR, CRR, CRC Date

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